

## **§ 920.52**

predicated and such other available information as the Secretary may request.

### **§ 920.52 Issuance of regulations.**

(a) The Secretary shall regulate, in the manner specified in this section, the handling of kiwifruit whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit, during any period or periods, the shipment of any particular grade, size, quality, maturity, or pack, or any combination thereof, of any variety or varieties of kiwifruit grown in the production area;

(2) Limit the shipment of kiwifruit by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;

(3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in the packaging or handling of kiwifruit.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary and the committee shall promptly give notice thereof to handlers.

### **§ 920.53 Modification, suspension, or termination of regulations.**

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 920.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of kiwifruit in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such

## **7 CFR Ch. IX (1-1-04 Edition)**

regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

### **§ 920.54 Special purpose shipments.**

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 920.41, 920.52, 920.53 and 920.55 and the regulations issued thereunder, handle kiwifruit: (1) For consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to § 920.41, § 920.52, § 920.53 or § 920.55, the handling of kiwifruit: (1) To designated market areas; (2) for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects); or, (3) in such minimum quantities or types of shipments, as may be prescribed.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent kiwifruit handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle kiwifruit pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the kiwifruit will not be used for any purpose not authorized by this section.

### **§ 920.55 Inspection and certification.**

(a) Whenever the handling of any variety of kiwifruit is regulated pursuant to § 920.52, or § 920.53, each handler who handles kiwifruit shall, prior thereto, cause such kiwifruit to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation: *Provided*, That inspection

## Agricultural Marketing Service, USDA

## § 920.61

and certification shall not be required for kiwifruit which previously have been so inspected and certified if such prior inspection was performed within such period as may be established pursuant to paragraph (b) of this section. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such kiwifruit. The committee may, with the approval of the Secretary, prescribe rules and regulations waiving the inspection requirements of this section where it is determined that inspection is not available: *Provided*, That all shipments made under such waiver shall comply with all regulations in effect.

(b) The committee may, with the approval of the Secretary, establish a period prior to shipment during which the inspection required by this section must be performed.

(c) The committee may enter into an agreement with the Federal and Federal-State Inspection Services with respect to the costs of the inspection required by paragraph (a) of this section, and may collect from handlers their respective pro rata shares of such costs.

### REPORTS

#### § 920.60 Reports.

(a) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, each shipment of kiwifruit as follows:

- (1) The name of the shipper and the shipping point;
- (2) The car or truck license number (or name of the trucker), and identification of the carrier;
- (3) The date and time of departure;
- (4) The number and type of containers in the shipment;
- (5) The quantities shipped, showing separately the variety, size and grade of the fruit;
- (6) The destination;
- (7) Identification of the inspection certificate or waiver pursuant to which the fruit was handled.

(b) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(c) Each handler shall maintain for at least two succeeding fiscal years, such records of the kiwifruit received and disposed of by such handler as may be necessary to verify the reports submitted to the committee pursuant to this section.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided*, That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handler furnishing the information, is not disclosed but may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

### MISCELLANEOUS PROVISIONS

#### § 920.61 Compliance.

(a) Except as provided in this part, no person shall handle kiwifruit, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle kiwifruit except in conformity with the provisions of this part and the regulations issued under this part.

(b) For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives shall have access to any handler's premises during regular business hours, and shall be permitted at any such times to inspect such premises and any kiwifruit held by